

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

REFERENCE:
AL PHL 3/2021

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 43/16, 42/22, 44/5, 43/4, 41/12, 44/8 and 40/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary arrest, harassment and criminalisation of woman human rights defender Ms. **Renalyn Tejero**, and the raid on the homes and subsequent arrest of human rights defenders Ms. **Maria Jesusa "Sasah" Sta. Rosa** and Mr. **Dan Balucio**.

Ms. Tejero is a human rights defender and paralegal officer for Karapatan, a non-governmental organisation and human rights alliance that promotes and protects human rights in the Philippines. Karapatan engages with civil society through their work on education, research, training, and advocacy of human rights issues and network building.

Ms. Rosa is a youth human rights defender and spokesperson of the Filipino youth organisation Jovenes Anakbayan, which defends and protects the rights of all people, including young farmers, students, professionals of all sectors, and minority groups.

Mr. Balucio is a human rights defender and pastor of the United Church of Christ of the Philippines. He is also a member of the umbrella organisation Bagong Alyansang Makabayan, through which he peacefully campaigns against extra-judicial killings of human rights defenders, the militarisation of communities and advocates for fundamental and human rights of all people.

The harassment, intimidation, arrests and extrajudicial killings of human rights defenders and members of Karapatan was brought to the attention of your Excellency's government in two communications PHL 5/2020 and PHL 7/2019. We regret to that at

the time of writing, there has been no response to either of these allegation letters from your Excellency's government.

According to the information received:

The case of Ms. Renalyn Tejero

On 21 March 2021, at approximately 05:30 a.m., officers from the Philippines National Police and the Philippine Army arrested Ms. Renalyn Tejero in Cagayan de Oro City. Upon her detention, an arrest warrant issued by a local court was cited. However, no subpoena was served to the woman human rights defender regarding the charges she faced, and her request to call her family and lawyer was denied.

Following her arrest, Ms. Tejero's whereabouts were unknown for several hours until police confirmed that she was detained in the Police Regional Office (PRO) 13, at Camp Colonel Rafael Rodriguez, in Butuan City, Agusan Del Norte. Ms. Tejero has been charged with 'attempted murder' and 'murder' and has been allegedly added to the government's list of "communist-terrorist group priority targets" in the Caraga region. Ms. Tejero has access to legal representation, but neither she nor her lawyer have been granted permission to view the relevant documents regarding the allegations against her.

It is reported that since November 2020, Ms. Tejero has been a victim of red-tagging for her alleged membership in "Communist Terrorist Groups" and her alleged involvement in the New Peoples Army. Since then, her name and photos appeared in Facebook posts and were pasted on leaflets and posters disseminated in the Caraga Administrative Region.

Since 2016, members of Karapatan have allegedly been targeted for carrying out their legitimate human rights work, and have been subject to harassment, arbitrary detention, criminalisation on fabricated charges, attacked and in some instances, killed.

The case of Mr. Dan Balucio and Ms. Maria Jesusa "Sasah" Sta. Rosa

On 2 May 2021, a large unit of police and military personnel entered with force into the home of woman human rights defender Ms. Rosa, where they proceeded to search her home and personal belongings as her and her relatives were brought outside the house. After almost one hour, police allegedly uncovered guns, ammunition, a grenade and arrested Ms. Rosa, and brought her to police station 2 in Naga city. It was later revealed that the address on the search warrant provided did not match Ms. Rosa's home address which was raided and from where she was arrested. At the time of writing, Ms. Rosa remains in detention in Police Station 2 in Naga city awaiting trial and has access to her lawyer.

On the same day, at approximately 3:30am, a similar policing operation took place at the home of Mr. Balucio, where he resides with his wife and two young children. Around 30 police officers and military personnel forcibly entered and searched his home in Albay. A search warrant was not presented to the human

rights defender until almost an hour had passed, and the captain of the Barangay police and the local Councilor arrived. The police claimed to have found guns, ammunition, a grenade, and a red flag and arrested Mr. Balucio. At the time of writing, Mr. Balucio remains in detention in the Sto Domingo Police station awaiting trial, where he has access to his lawyer.

While we do not wish to prejudge the accuracy of the information received, we express serious concern about the alleged arbitrary arrests of human rights defenders, reportedly perpetrated by the police and military personnel. The harassment, intimidation, alleged arbitrary arrest and continued detention of woman human rights defender Ms. Tejero is deeply worrying, as it appears to be in direct response to her legitimate and important work as a human rights defender in the Philippines. Moreover, we are concerned that the apparent charges Ms. Tejero is accused of have allegedly been fabricated in an attempt to criminalise her human rights activity.

Furthermore, we are concerned about the circumstances of Ms. Tejero's arrest. We are concerned that following her arrest, her whereabouts were not disclosed for several hours, and her request to call her lawyer and family was denied. It is of our utmost concern that the authorities did not respect her right to due process and that she was unaware of the charges she faced until her detention. It is also of concern that neither Ms. Tejero nor her lawyers have been able to access the relevant evidentiary documents regarding the allegations against her, and thus are unable to properly prepare her defence.

The raids against and subsequent arrest of human rights defenders Ms. Rosa and Mr. Balucio are of particular concern, as the authorities would be using raids to target, arrest and criminalise human rights defenders in the country on allegedly fabricated charges. It is very concerning, and a source of suspicion, that almost identical incriminating items were found during both raids, after which the human rights defenders were arrested. It is also of particular concern that arrest warrants were not issued immediately to either of the human rights defenders, and there are reportedly inconsistencies with the search warrant presented to Ms. Rosa. This ongoing pattern of raiding the homes of human rights defenders would seem to be aimed at intimidating and vilifying human rights defenders and may have a chilling effect on civil society in the country.

We remind your Excellency's Government of the recommendation 133.74 which you agreed to consider during the HRC/36/12, to stop the implementation of counter-insurgency programmes that target human rights defenders and civilians. It appears that this tactic is being continuously employed by the authorities to discredit and slander their legitimate and peaceful human rights work, and mark them as terrorists who directly threaten the national security of the country. The UN High Commissioner warned in her 2020 report that red-tagging human rights defenders - labelling them as communists or terrorists - is extremely dangerous and that human rights defenders must be protected from this type of targeting. Furthermore, the HRC resolutions noted grave concern about the fact that "in some instances, national security and counter-terrorism legislation and other measures, such as laws regulating civil society organizations, have been misused to target human rights defenders or have hindered their work and endangered their safety in a manner contrary to international law."

Finally, there is a growing and concerning pattern of fabricate charges being used to harass, threaten, criminalise and in some cases justify the extrajudicial execution of human rights defenders. There appears to be insufficient evidence to prove the murder and terrorist charges against Ms. Tejero, Mr. Balucio and Ms. Rosa. This dangerous tactic, allegedly used by the authorities to incriminate human rights defenders, not only vilifies them and delegitimises the promotion and protection of human rights, but creates a hostile environment for human rights defenders in the Philippines, which in turn generates fear amongst human rights defenders, prevents them from carrying out their work and from exercising their legitimate rights to freedom of association and to freedom of expression.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the factual and legal basis for the alleged arbitrary arrest of woman human rights defender Ms. Renalyn Tejero. Please explain why her whereabouts were not promptly disclosed following her arrest.
3. Please give the factual and legal basis for the murder charges Ms. Renalyn Tejero has been accused of, and provide the evidence of Ms. Renalyn Tejero's association with "Communist Terrorist Groups" which led to her arrest, and her being added to the country's terrorist list.
4. Please provide information in details of how your Excellency's Government's counter-terrorism efforts comply with the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123, 72/180 and 73/174 in particular with international human rights law, refugee law, and humanitarian law contained therein.
5. Please provide further information on how the definition of terrorism in Philippine's relevant terrorism legislation is narrowly construed so as to guarantee that measures taken pursuant to it do not unduly interfere with human rights while complying with the principle of legality. Please also explain how your Excellency's Government's anti-terrorism legal framework ensures that the accused's right to council and right to fair trial under article 14 of the ICCPR are respected.

6. Please explain why Ms. Renalyn Tejero was allegedly denied her right to due process upon her arrest and throughout her judicial process. Please explain why Ms. Renalyn Tejero and her lawyers have allegedly not been allowed full access to the necessary case files. Please also explain how this complies with the obligations of the Government of the Philippines under international law.
7. Please provide the factual and legal basis for the raids carried out on the homes of Ms. Rosa and Mr. Balucio, as well as the delay and alleged inconsistencies with providing search warrants authorising these raids.
8. Please provide specific evidence relating to the Ms. Rosa and Mr. Balucio's ownership of the incriminating items allegedly found in their homes.
9. Please provide the factual and legal basis for the arrest of Ms. Rosa and Mr. Balucio, the exact charges they face, as well as updates on their judicial processes.
10. Please explain the justification for red tagging - labelling individuals and groups as communists or terrorists – as a tactic used by the authorities in the Philippines to target human rights defenders in the country. Please explain how the peaceful and legitimate human rights work carried out by Ms. Renalyn Tejero, Ms. Rosa and Mr. Balucio pose a threat to the national security of the Philippines. Please outline the measures your Excellency's Government have put in place to prevent further harassment, arbitrary arrests, attacks, threats and killings against human rights defenders in the Philippines. Please indicate the measures taken to guarantee the establishment of a safe and enabling environment for the work of human rights defenders, specifically through the adoption of a law for the protection and recognition of human rights defenders.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We would like to inform your Excellency's Government that having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such communications in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

Please accept, Excellency, the assurances of our highest consideration.

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

Tae-Ung Baik
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Irene Khan
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Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental
freedoms while countering terrorism

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to of the International Covenant on Civil and Political Rights, ratified by the Philippines on 23 October 1986.

In particular, we refer to article 9 of the ICCPR, which guarantees the rights to liberty and security of person, and provides that no person should be arbitrarily arrested, detained or deprived of their liberty and that one must be promptly informed of the charges against them. Article 9 (4) also entitles everyone detained to challenge the legality of such detention before a judicial authority. United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court state that the right to challenge the lawfulness of detention before a court is a self-standing human right, the absence of which constitutes a human rights violation. We also draw your attention to article 14 of the ICCPR, which enshrines that all persons are to be seen as equal before the courts and tribunals. In this article, the presumption of innocence before proven guilty as well as explicit fair trial guarantees are outlined. Furthermore, article 14 states the right of all persons to have adequate time and facilities to prepare their defence, either on their own or in consultation with a legal representative of their own choosing.

Furthermore, in its General Comment No 35, the Human Rights Committee has found that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of assembly (art. 21), freedom of association (art. 22) and freedom of religion (art. 18). This has also been established in consistent jurisprudence of the Working Group on Arbitrary Detention.

We also wish to reiterate that, in accordance with the art. 10 (2) of the Declaration on the Protection of All Persons from Enforced Disappearance, accurate information on the detention of persons deprived of liberty and their place or places of detention, including transfers, should be made promptly available to their family members, to their counsel or to any other persons having a legitimate interest in the information, and that failure to do so amounts to an enforced disappearance.

Relating to the fundamental rights of freedom of expression and association, we refer to articles 19 and 22 of the above-mentioned Covenant. Article 19 refers to the right to hold opinions without interference, and the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, through any medium they wish. Article 22 of the ICCPR directly addresses the basic right of all individuals to freely associate with others, including the association of organisations, unions and alliances. Embedded in this article is that there shall be no restrictions placed on exercising this right, and that no one shall be prosecuted for doing so.

We would also like to refer to Human Rights Council resolution 22/6, which urges States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights. (OP 10). We would further like to refer to Human Rights

Council resolution 34/5, which notes that, in some instances, national security and counter-terrorism legislation and other measures, such as laws regulating civil society organisations, have been misused to target human rights defenders or have hindered their work and endangered their safety in a manner contrary to international law.

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Finally, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- Article 5 (b) and (c), which provides for the right of all persons to form, join and participate in non-governmental organizations, associations and groups; and to communicate with non-governmental or intergovernmental organizations;
- article 6 point which provides (a) and (b), which provides for the right of all persons to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms and freely to publish, impart or disseminate to others views on these matters.
- article 11 which provides that everyone has the right, individually or in association with others, to the lawful exercise of their profession;
- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.